

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKJOHN E. ANDRUS MEMORIAL, INC. (d/b/a ANDRUS
ON HUDSON),

Plaintiff,

-against-

RICHARD F. DAINES, as Commissioner of the New York
State Department of Health,

Defendant.

2007 Civ. 3432 (CLB)(MDF)

**ORDER TO SHOW
CAUSE FOR INJUNCTIVE
RELIEF WITH
TEMPORARY
RESTRAINING ORDER**

Upon the annexed affirmation of Brian T. McGovern, dated on April 23, 2008, together with the exhibits annexed thereto, and upon all prior papers filed and proceedings had herein, and good cause appearing therefor, it is

ORDERED, that defendant Richard F. Daines, as Commissioner of the New York State Department of Health, or his attorneys, show cause before the Honorable Charles L. Briant, United States District Judge for the Southern District of New York, at the United States Courthouse, located at 300 Quarropas Street, White Plains, New York, on May 7th, 2008 at 9:30 A.M., why an Order should not issue pursuant to Rule 65 of the Federal Rules of Civil Procedure, enjoining defendant and his agents preliminarily: (i) from taking any further steps to implement the recommendation made by the Commission on Health Care Facilities in the 21st Century to close John E. Andrus Memorial, Inc.'s nursing facility; and (ii) from otherwise seeking to revoke or modify the Andrus' operating certificate pending the final determination of this matter; and it is further

ORDERED that, security in the sum of waived
~~shall be deposited by plaintiff on or before~~

ORDERED that, pending the hearing and determination of plaintiff's application for preliminary injunctive relief, defendant and its agents be, and hereby are, enjoined from (a), taking any further steps to implement the recommendation made by the Commission on Health Care Facilities in the 21st Century to close John E. Andrus Memorial, Inc.'s nursing facility; (b) issuing an amended operating certificate to the Andrus; and (c) otherwise seeking to revoke or modify the Andrus' operating certificate; and it is further

ORDERED that personal service of this Order to Show Cause for Injunctive Relief with Temporary Restraining Order, together with the papers upon which it is made, on the New York State Office of the Attorney General, 120 Broadway, New York, New York, attorneys for defendant Daines, on or before 5:00 P.M. on April 23, 2008, shall be deemed good and sufficient service; and that papers in opposition, if any, shall be delivered so as to be received by the attorneys for plaintiff on or before 5:00 P.M. on April 24, 2008.

~~ENTER~~ So Ordered:

Charles L. Briant

CHARLES L. BRIANT, U. S. D. J.

Dated: White Plains, New York
April 23, 2008

*Done at 10:30 AM
See transcript*